

REFERENCE TITLE: ombudsman; assistance; surface water adjudications

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

# **HB 2620**

Introduced by  
Representative Bowers

AN ACT

AMENDING SECTION 41-1376, ARIZONA REVISED STATUTES; RELATING TO THE OMBUDSMAN-CITIZENS AIDE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 41-1376, Arizona Revised Statutes, is amended to  
3 read:

4                  41-1376. Powers and duties

5                  A. The ombudsman-citizens aide shall:

6                  1. Investigate the administrative acts of agencies pursuant to  
7 section 41-1377, subsections A and B except as provided in section  
8 41-1377, subsections C, D and E. The ombudsman-citizens aide shall  
9 investigate the administrative acts of an agency without regard to the  
10 finality of the administrative act.

11                  2. Annually before January 1 prepare a written report to the  
12 governor, the legislature and the public that contains a summary of the  
13 ombudsman-citizens aide's activities during the previous fiscal year. The  
14 ombudsman-citizens aide shall semiannually present this report before the  
15 legislative council and distribute copies of the report to the director of  
16 the governor's office of strategic planning and budgeting, the chairperson  
17 of the joint legislative budget committee and the cochairpersons of the  
18 administrative rules oversight committee. This report shall include:

19                  (a) The ombudsman-citizens aide's mission statement.

20                  (b) The number of matters that were within each of the categories  
21 specified in section 41-1379, subsection B.

22                  (c) Legislative issues affecting the ombudsman-citizens aide.

23                  (d) Selected case studies that illustrate the ombudsman-citizens  
24 aide's work and reasons for complaints.

25                  (e) Ombudsman-citizens aide's contact statistics.

26                  (f) A description of the public awareness and outreach activities  
27 conducted by the ombudsman-citizens aide.

28                  (g) Ombudsman-citizens aide's staff.

29                  3. Before conducting the first investigation, adopt rules that  
30 ensure that confidential information that is gathered will not be  
31 disclosed.

32                  4. Appoint a deputy ombudsman and prescribe the duties of employees  
33 or, subject to appropriation, contract for the services of independent  
34 contractors necessary to administer the duties of the office of  
35 ombudsman-citizens aide. All staff serves at the pleasure of the  
36 ombudsman-citizens aide, and they are exempt from chapter 4, articles 5  
37 and 6 of this title. All staff ~~shall be~~ IS subject to the conflict of  
38 interest provisions of title 38, chapter 3, article 8.

39                  5. Before conducting the first investigation, adopt rules that  
40 establish procedures for receiving and processing complaints, including  
41 guidelines to ensure each complainant has exhausted all reasonable  
42 alternatives within the agency, conducting investigations, incorporating  
43 agency responses into recommendations and reporting findings.

1       6. Notify the chief executive or administrative officer of the  
2 agency in writing of the intention to investigate unless notification  
3 would unduly hinder the investigation or make the investigation  
4 ineffectual.

5       7. Appoint an assistant to help the ombudsman-citizens aide  
6 investigate complaints relating to the department of child safety. The  
7 assistant shall have expertise in the department of child safety  
8 procedures and laws. Notwithstanding any law to the contrary, the  
9 ombudsman-citizens aide and the assistant have access to the department of  
10 child safety records and to any automated case management system used by  
11 the department of child safety.

12      8. APPPOINT AN ASSISTANT TO HELP THE OMBUDSMAN-CITIZENS AIDE ASSIST  
13 CLAIMANTS IN THE GENERAL ADJUDICATION OF WATER RIGHTS FILED PURSUANT TO  
14 TITLE 45, CHAPTER 1, ARTICLE 9 WHO ARE NOT REPRESENTED BY COUNSEL. THE  
15 OMBUDSMAN-CITIZENS AIDE'S ASSISTANCE IS LIMITED TO PROCEDURAL MATTERS AND  
16 MAY NOT INCLUDE LEGAL ADVICE REGARDING THE VALIDITY OF CLAIMS OR DEFENSES  
17 OR THE INVESTIGATION OF ANY AGENCY. THE OMBUDSMAN-CITIZENS AIDE SHALL  
18 COOPERATE AND COORDINATE WITH ANY LAW SCHOOL IN THIS STATE TO PROVIDE FOR  
19 LAW SCHOOL STUDENTS UNDER THE SUPERVISION OF THE LAW SCHOOL'S CLINICAL  
20 INSTRUCTORS TO ASSIST PARTIES IN THE ADJUDICATION WHO HAVE FEWER LEGAL  
21 RESOURCES AVAILABLE TO THEM WHEN COMPARED TO OTHER PARTIES IN THE  
22 ADJUDICATION.

23      B. After the conclusion of an investigation and notice to the head  
24 of the agency pursuant to section 41-1379, the ombudsman-citizens aide may  
25 present the ombudsman-citizens aide's opinion and recommendations to the  
26 governor, the legislature, the office of the appropriate prosecutor or the  
27 public, or any combination of these persons. The ombudsman-citizens aide  
28 shall include in the opinion the reply of the agency, including those  
29 issues that were resolved as a result of the ombudsman-citizens aide's  
30 preliminary opinion or recommendation.